the meter and other appliances they should belong to him as appurtenances of his realty. *Philbrick* v. *Ewing*, 97 Mass. 133; *Mulrooney* v. *Obear*, 171 Mo. 613, 71 S. W. 1019. Neither of these cases is closely in point with the principal case; in fact there seems to have been no previous adjudication on that precise question. In the Massachusetts case above cited, a property owner had laid a water pipe from a street main, across the property of another, to his own house, for domestic purposes. He sold his house and lot, making no mention in the deed of the water supply. After executing the deed, the vendor cut off the pipe at the boundary of the land he had sold, and dug it up from there to the highway where it joined the main. In a tort action by the vendee, it was held that the pipe so dug up was a fixture appurtenant to the house, and passed by the deed to the purchaser. In the principal case, since the stop-box and meter were the property of the land owner, as appurtenant to the realty, the burden of maintaining and repairing them was clearly his, and the plaintiff, injured by the protruding pipe, had no cause of action against the water company.

WILLS—CONSTRUCTION—REVOCATION—DOUBTFUL INTENTION.—The testator appointed Bowyer Nichols one of his executors and gave him a legacy of one thousand pounds and also one-third of the residue of his real and personal estate. About one year after making the will, a codicil was made which, with other clauses contained a clause reciting the appointment of Nichols and the gift of the legacy to him and concluded: "Now, I hereby revoke the appointment of the said Bowyer Nichols as such executor and also the legacy of one thousand pounds given to him as aforesaid and I appoint Harry Freeman * * * to be an executor of my said will in the place of the said Bowyer Nichols and I give to the said Harry Freeman a legacy of two hundred pounds free of legacy duty for his trouble in acting as such executor, and I declare that my said will shall be construed and take effect as if the name of the said Harry Freeman were inserted in my will throughout instead of the name of the said Bowyer Nichols." Summons was taken out to determine whether Bowyer Nichols or Harry Freeman was entitled to the share of testator's residuary estate which was given to Bowyer Nichols by the will. *Held*, the codicil does not operate as a revocation of the residuary legacy to the first-appointed executor. The substitution of the one name for the other applies only to the matter which precedes, that is, to the appointment of the substituted executor and the change in the amount of his legacy. *Freeman In re; Hope* v. *Freeman* (1910), 79 L. J. Ch. 678.

The case strongly supports the general rule that a clear gift can be taken away only by a clear revocation. It does not seem reasonable that the testator, had he intended to revoke all gifts to Nichols, would have expressly revoked one which was small in comparison to the residuary legacy and left that larger one to be revoked by inference. The word "throughout" may reasonably be construed to mean throughout for the purpose then in hand, namely, to give the substituted executor the same powers as executor and trustee as Nichols had before the change. The lower court based its decision of the principal case on *Re Percival; Boote* v. *Dutton*, 59 L. T. 21

where the testatrix by a codicil expressly revoked certain specific legacies to her granddaughters and proceeded: "and declare that my said will shall be read and construed in all respects as if the names of the said (naming the granddaughters) had not been inserted therein." This was held not to revoke a general pecuniary legacy to one of the granddaughters which had not been expressly revoked. See *Cleoburey* v. *Beckett,* 14 Beav. 583. An obvious mistake in the revoking clause may be cured and given effect as intended; *Home for Incurables* v. *Noble,* 172 U. S. 383. A gift of the residue in a codicil revokes a gift of the residue in the will, since they are clearly inconsistent. *In re Scott's estate,* 141 Cal. 485, *Hubbard* v. *Hubbard,* 198 Ill. 621, *Dowler* v. *Rodes' Adm'r.,* 26 Ky. L. Rep. 1087, 83 S. W. 115. 1 WILLIAMS, EXECUTORS, p. 229, states the rule: "Indeed, it may be stated generally as a canon of construction, that a clear gift cannot be cut down by any subsequent words unless they show an equally clear intention. But in applying this rule it is sufficient that the subsequent words indicate the testator's intention to cut the gift down with reasonable certainty, and the rule does not mean that you are to institute a comparison between the two clauses as to lucidity." It is difficult, without an express revocation of the specific gift, to frame a more positive expression of intention than a provision that one name shall be substituted for another throughout. Many of the courts show a tendency toward instituting that comparison which Mr. WILLIAMS says is not the intention of the rule.

WILLS—EXECUTORS—POWER OF SALE.—The will of testatrix contained the following clause: "I give my personal representatives full power to sell all my real estate wheresoever situated and make deeds to same." A codicil to the will was admitted to probate with the will proper. Proceedings contesting the validity of this alleged codicil were pending. The executors had advertised for sale under the power given in the will a large part of the real and personal property. This was a bill for an injunction to restrain the sale of the realty on the following grounds: (1) That until the determination of the contest of the codicil, the plaintiffs will not know what part of the residuum will be theirs and cannot therefore bid intelligently at the proposed sale. (2) That the personal property of the estate is sufficient to pay all debts and legacies, and should be so applied. (3) That the estate is capable of being divided in kind among the legatees and devisees. *Held,* the power given by the will is ample to justify the executors in selling the realty, and the facts alleged by plaintiffs fail to show that its exercise would be an abuse of discretion. *Rice et al.* v. *Coleman et al.* (1910), — S. C. —, 69 S. E. 516.

The decision was rendered by an evenly divided court; WOODS, J., with whom concurred GARY, J., affirming the decision of the Circuit Court. Their ground for refusing the injunction was that the testatrix knew at the time she made the will that it would not be necessary to sell the realty in order to pay the debts and legacies, since her personal property was more than abundant for these purposes. She could not, therefore, have intended to limit the power to sell to the happening of such a contingency. The position of the plaintiffs as regards bidding at the proposed sale cannot deprive the exe-